

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 3917 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

YUSUFBHAI NOORMOHAMMAD VORA

Versus

STATE OF GUJARAT

Appearance:

MR MM TIRMIZI for Petitioner

MR SP DAVE, APP for Respondent No. 1

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 16/07/1999

ORAL JUDGEMENT

1. Heard Mr. Tirmizi, learned advocate for the petitioner and Mr. S.P. Dave, learned Additional Public Prosecutor for the respondent-State. Perused the report of the Chief Officer, Probation of Offenders Act, Ahmedabad, sent to this Court following the order of this Court dated 7th July, 1999.

2. The petitioner came to be convicted under Section 323 of Indian Penal Code and was sentenced to undergo simple imprisonment for a month and a half and was also fined Rs.100/- and to undergo simple imprisonment for further period of 5 days, in default, by the learned Metropolitan Magistrate, Court No.5, Ahmedabad, in Criminal Case No.1716 of 1991. The said order was taken in revision before the City Sessions Court vide Criminal Revision Application No.37 of 1998 and the learned Additional City Sessions Judge dismissed the revision application and confirmed the judgment and order of conviction so also the sentence, which has now been impugned by virtue of this petition.

3. Initially, when the matter came up, the matter was admitted and notice was issued only as to sentence. Side by side, report of the Probation Officer was called and the same is before this Court.

4. Perusal of the report of the Chief Officer, Probation of Offenders Act, Ahmedabad, indicates that the petitioner's antecedents are good. His behaviour is good. He is involved in this offence for the first time. Thereafter, he has not involved in any offence and there is chance and scope for his improvement if benefit of probation is given to him.

5. The petitioner is a rickshaw driver and has a family to support. The dispute arose in a heat of moment which at the time of occurrence due to some tenancy disputes. There does not seem to be any premeditated crime committed by the petitioner. Under the circumstances, this Court is inclined to accept the report of the Probation Officer and grant benefit of probation to the petitioner while not disturbing the findings of the Trial Court as well as the Revisional Court below.

6. The petitioner is already on bail. The conviction is confirmed. The sentence is suspended on the petitioner furnishing a bond and a surety for Rs.5000/- for good conduct for a period of one year, during which he shall keep peace and shall not indulge in any illegal activity. In the event he indulges into any illegal act or commits breach of this order, his probation shall come to an end and he shall be liable to undergo the punishment inflicted on him. Rule is discharged with the above directions.

[A.L. DAVE, J.]

